



0000089378

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MIKE GLEASON - Chairman
 WILLIAM A. MUNDELL
 JEFF HATCH-MILLER
 KRISTIN K. MAYES
 GARY PIERCE

AZ CORP COMMISSION
DOCKET CONTROL

2008 OCT 14 A 9:54

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IN THE MATTER OF THE WATER
 RULEMAKING TO AMEND EXISTING
 RULES AND/OR ESTABLISH NEW RULES
 REGARDING THE COMMISSIONS
 REQUIREMENTS FOR APPLICATIONS
 REQUESTING APPROVAL TO OBTAIN A
 NEW CERTIFICATE OF CONVENIENCE
 AND NECESSITY OR EXTEND AN
 EXISTING CERTIFICATE OF
 CONVENIENCE AND NECESSITY FOR
 WATER AND SEWER UTILITIES

DOCKET NO. : RW00000B-07-0051
 RSW-00000A-07-0051

COMMENTS ON RULEMAKING

Arizona Water Company's additional comments in the above-captioned matter are
 attached.

RESPECTFULLY SUBMITTED this 14th day of October, 2008.

ARIZONA WATER COMPANY

Arizona Corporation Commission

DOCKETED

OCT 14, 2008



By: Robert W. Geake
 Robert W. Geake
 Vice President and General Counsel
 ARIZONA WATER COMPANY
 Post Office Box 29006
 Phoenix, Arizona 85038-9006

1
2 Original and thirteen (13) copies of the foregoing filed the 14th day of October, 2008 with:

3 Docket Control Division
4 Arizona Corporation Commission
5 1200 West Washington Street
6 Phoenix, Arizona 85007

7 A copy of the foregoing was mailed this 14th day of October, 2008 to:

8 Janice Alward, Chief Counsel
9 Legal Division
10 Arizona Corporation Commission
11 1200 West Washington
12 Phoenix, Az 85007

13 Ernest G. Johnson, Director
14 Utilities Division
15 Arizona Corporation Commission
16 1200 West Washington Street
17 Phoenix, Arizona 85007

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By: Robert Lake

ARIZONA WATER COMPANY

3805 N. BLACK CANYON HIGHWAY, PHOENIX, ARIZONA 85015-5351 • P.O. BOX 29006, PHOENIX, ARIZONA 85038-9006
PHONE: (602) 240-6860 • FAX: (602) 240-6878 • WWW.AZWATER.COM

October 14, 2008

Mr. Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Re: Docket No. RW-00000B-07-0051 - IN THE MATTER OF RULEMAKING TO AMEND EXISTING RULES AND/OR ESTABLISH NEW RULES REGARDING THE COMMISSION'S REQUIREMENTS FOR APPLICATIONS REQUESTING APPROVAL TO OBTAIN A NEW CERTIFICATE OF CONVENIENCE AND NECESSITY OR EXTEND AN EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY FOR WATER AND SEWER UTILITIES

Dear Mr. Johnson:

Arizona Water Company (the "Company") provides the following comments on the August 6, 2008 version of the proposed changes to Arizona Corporation Commission's (the "Commission") rules regarding an application for a new Certificate of Convenience and Necessity ("CCN") or extension of a CCN (Arizona Administrative Code Section R14-2-402, the "Water Rules").

The Company remains concerned about the lack of positive changes in the Water Rules. Despite the detailed comments by the Company and other water utilities on January 10, 2008 and March 17, 2008, the Water Rules have remained in substantially the same form as when first promulgated in January 2008.

For these reasons, the Company reiterates the specific comments it presented on January 10, 2008 and March 17, 2008 by enclosing a copy of those comments with this letter as Attachments A and B, respectively. In addition, the Company provides the following comments on certain changes that appear for the first time in the latest version of the Water Rules:

1. In the Company's January 10, 2008 and March 17, 2008 comments on the proposed revisions to the current public notice requirements for an application for a new CCN or an extension of an existing CCN, the Company explained that the existing notice provisions are adequate. The Company continues to believe that there is simply no evidence that property owners or other interested persons are not already receiving adequate notice under the Commission's current procedures.

E-MAIL: mail@azwater.com

To: Mr. Ernest G. Johnson
Re: Docket No. RW-00000B-07-0051

October 14, 2008

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Now, however, instead of keeping the notice procedures simple, as the Company has suggested (newspaper publication and a letter notifying property owners), new section 14-2-402.B.3 would require that before filing an application, the applicant must provide to each property owner in the affected area who has not requested service with written notice of its intention to file the application via a complex notice that includes information about the applicant, the hearing process, contact information for the Commission, along with other information. Moreover, the application would have to be prepared before the notice is sent, as Section B.3.iv would require the notice to state that the application will be open for inspection at the applicant's offices. Section 14-2-402.B.4 would require a similarly overly complicated notice of filing to each municipality with corporate limits within five (5) miles of the service or extension area to be sent. These notice requirements, with their unduly extensive list of requirements, will overburden the CCN application process without producing any discernable benefit to the Commission or the public. The need for this expansive notice has not been shown, and the Company urges the Commission to reject these revisions to the Water Rules.

2. In its January 10, 2008 and March 17, 2008 comments concerning the substantially greater information that the Water Rules would require all applicants for a new CCN or CCN extension to file, the Company pointed out: (a) Staff already has the authority to require on a case-by-case basis such additional information that Staff finds to be necessary, and (b) that the proposed rules should not require Class A utilities, which file applications frequently, to file the same information for CCN extensions as for new CCNs. The Water Rules, instead of adopting any of these recommendations, would make matters worse.

None of the previous filing requirements has been eliminated. Instead, new information requirements are ladled on, such as:

- a. Name, mailing address, and telephone number of management contact.
- b. Name, mailing address, and telephone number of attorney contact.
- c. Name, mailing address, and telephone number for ADEQ operator who will be working for the applicant.
- d. Name, mailing address, and telephone number for on-site manager.
- e. Classification of legal entity.
- f. Specific information, depending on the type of legal entity (e.g., for a corporation, names, titles, mailing addresses of directors and officers; a certificate of good standing; etc.).
- g. Estimated total construction cost of proposed offsite and onsite facilities to be constructed, including documentation to support the estimates and an explanation of the financing.

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Re: Docket No. RW-00000B-07-0051

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h. Estimated revenue and expenses for the first five years following approval, and the estimated value of utility plant in service for the first five (5) years following approval of the CCN, in addition to routine information about the financial condition of the applicant.

i. Estimated annual operating revenue and expenses for the first five years of operation, expressed separately for residential, commercial, industrial and irrigation service, including a description of the assumptions for deriving the estimates.

j. Estimated number of customers for first five years of operation stated separately for each customer class, including information as to how the estimates were derived.

It is difficult to understand what, if any value, is gained by requiring a utility like the Company to submit the foregoing information for each new CCN or extension application, when the information is already on file with the Commission or known to the Staff through long experience with the Company's applications. These revisions are burdensome and costly for a utility like the Company, and the Company again urges the Commission either to reject these requirements, or to at least make them applicable on a case-by-case basis in Staff's exercise of its judgment and discretion.

3. Even though applicants already must provide information about water conservation, the Company agrees with other commentators that this subject matter is already adequately regulated by the Department of Water Resources. The Company suggests that the Water Rules be changed to allow applicants to submit their water conservation plans or similar information that they already filed with the Department, and that this requirement be limited to water systems located within active management areas.

4. The Company commented on the proposed revisions to the Water Rules relating to extensions to serve areas in paragraph 6 of its January 10, 2008 comments and paragraph 1 of its March 17, 2008 comments. Those comments did not result in any change to the Water Rules, and now R14-2-402.E has been expanded to require the legal description of the contiguous parcel and location of structures therein in relation to the utility's CCN. The notice must also state that the service will be extended only to a non-certificated parcel that is contiguous. These new requirements make an unduly burdensome rule only more burdensome. Moreover, the Company repeats its comment that the proposed rule is still inconsistent with A.R.S. §40-281.B, which not only permits extensions into non-contiguous areas in cities, counties or towns where a utility already serves, and for which the Water Rules would not require notification, but which specifically provides that public service corporations shall not be required to secure a CCN for such extensions contiguous or otherwise.

Thank you for the opportunity to comment on the Water Rules and amplify the Company's previous comments. Also, the Company supports the Commission's decision to have additional public comment sessions concerning changes to the Water Rules.


To: Mr. Ernest G. Johnson
Re: Docket No. RW-00000B-07-0051

October 14, 2008

Page 4

Please feel free to contact me to discuss the Company's comments or any question about them that you may have.

Very truly yours,

A handwritten signature in cursive script that reads "Robert W. Geake".

Robert W. Geake
Vice President and General Counsel

lar
Enclosures

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

2008 MAR 17 P 12:15

COMMISSIONERS

MIKE GLEASON - Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF RULEMAKING TO
AMEND EXISTING RULES AND/OR
ESTABLISH NEW RULES REGARDING
THE COMMISSION'S REQUIREMENTS
FOR APPLICATIONS REQUESTING
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CERTIFICATE OF CONVEINENCE AND
NECESSITY OR EXTEND AN EXISTING
CERTIFICATE OF CONVENIENCE AND
NECESSITY FOR WATER AND SEWER
UTILITIES

DOC KET NO. : RW-00000B-07-0051
(Water Rulemaking)

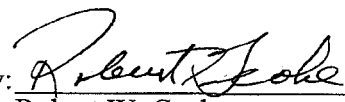
DOCKET NO.: RSW-00000A-07-0051
(Sewer Rulemaking)

COMMENTS ON PROPOSED RULES

Arizona Water Company's comments on the proposed water rules contained in the
January 24, 2008 procedural order entered on January 24, 2008 in the above-captioned matter are
attached.

RESPECTFULLY SUBMITTED this 17th day of March, 2008.

ARIZONA WATER COMPANY

By: 
Robert W. Geake
Vice President and General Counsel
ARIZONA WATER COMPANY
Post Office Box 29006
Phoenix, Arizona 85038-9006

1 Original and thirteen (13) copies of the foregoing filed the 17th day of March, 2008 with:

2

3 Docket Control Division
4 Arizona Corporation Commission
5 1200 West Washington Street
6 Phoenix, Arizona 85007

5

6 A copy of the foregoing was hand-delivered this 17th day of March, 2008 to:

6

7 Christopher Kempley, Chief Counsel
8 Legal Division
9 Arizona Corporation Commission
10 1200 West Washington Street
11 Phoenix, Arizona 85007

12 Ernest G. Johnson, Director
13 Utilities Division
14 Arizona Corporation Commission
15 1200 West Washington Street
16 Phoenix, Arizona 85007

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14 By: 

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ARIZONA WATER COMPANY

3805 N. BLACK CANYON HIGHWAY, PHOENIX, ARIZONA 85015-5351 • P.O. BOX 29006, PHOENIX, ARIZONA 85038-9006
PHONE: (602) 240-6860 • FAX: (602) 240-6878 • WWW.AZWATER.COM

March 17, 2008

Mr. Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Re: Docket No. RW-00000B-07-0051 - IN THE MATTER OF
RULEMAKING TO AMEND EXISTING RULES AND/OR ESTABLISH
NEW RULES REGARDING THE COMMISSION'S REQUIREMENTS
FOR APPLICATIONS REQUESTING APPROVAL TO OBTAIN A NEW
CERTIFICATE OF CONVENIENCE AND NECESSITY OR EXTEND AN
EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY FOR
WATER AND SEWER UTILITIES

Dear Mr. Johnson:

Arizona Water Company (the "Company") provides the following additional comments on the proposed changes to Arizona Administrative Code Section R14-2-402 (the "Water Rules") in accordance with an Arizona Corporation Commission (the "Commission") procedural order dated January 24, 2008.

The Company is concerned about the lack of positive changes in the Water Rules. Despite the detailed comments by the Company and other water providers, no positive changes were made.

For these reasons, the Company reiterates many of the specific comments it presented on January 10, 2008 and comments on the additional changes that appear for the first time in the Water Rules.

1. Section 14-2-402.D is still inconsistent with A.R.S. §40-281.B, which provides for extensions into *non-contiguous* territory within a City, County or Town within which a utility has lawfully commenced operations. Is it the Commission's intent to not require prior notification to the Commission for such extensions? Also, inserting the definition of "contiguous" at the beginning of Article 4 is out of place and is not germane to the sections that follow. That definition should remain at the end of Article 4.

E-MAIL: mail@azwater.com

To: Mr. Ernest G. Johnson
Re: Docket No. RW-00000B-07-0051

March 17, 2008
Page 2

2. a. The current procedures for providing public notice of the initial filing of an application for a Certificate of Convenience and Necessity ("CCN") or an extension of an existing CCN are adequate. There is simply no evidence that landowners or other interested persons are not already receiving adequate notice under the Commission's current procedures. Apart from a minor "exception" added to exclude notices to landowners who have requested service, the proposed changes represent no substantive change at all to Staff's initial proposal in new Section 14-2-402.B.2.k. The revised notice provisions would significantly burden the CCN application process without any showing that a change in current procedures is necessary.

b. New section 14-2-402.B.2.k, would require the applicant to include with its application a copy of a notice to the municipal manager or administrator of each municipality located within five miles of the area under application (the five-mile distance also being part of a new mapping requirement; see 6, below). But none of the comments recommended or show a necessity for this new requirement; it is simply an unnecessary layer of regulation. The Commission's E-Docket service provides more than adequate information about CCN applications that any interested party, including an interested municipality, can track. This change is burdensome and is not necessary.

3. Section 14-2-402.B.2.n, would require the applicant for a water CCN to again contact landowners who did not respond to the Company's notice, and ask them to respond in writing. This extraordinary requirement (which is not required for applicants of sewer CCNs) is not warranted and would significantly burden the CCN application process. No evidence has been provided to show any change in current procedures is necessary.

4. The Water Rules will require the same information from applicants for extensions of existing CCNs, as for new CCNs. The Company and other water utilities have previously commented that for Class A utilities, which often file applications for CCN extensions, it is simply not necessary that identical and redundant information be filed with every extension application.

5. Revised Section 14-2-402.B.2.i now requires that any request for service identify the requested water service provider. The problem is that it implies that someone other than the Commission selects which water service provider should serve in a particular case. This conflicts with the Commission's lawful role. It is the Commission, not a landowner or developer that must determine what is in the public interest, and who is a fit and proper water service provider. The Company urges the Commission to reject this needless and misguided revision.

6. New Section 14-2-402.B.2.j, which would require that detailed maps be filed with new extension applications is unduly burdensome, unnecessary, and practically impossible to comply with. That new section requires the maps to identify, among other things:

"ii. Land ownership boundaries indicating *the acreage of each parcel* within the area under application if the area under

To: Mr. Ernest G. Johnson
Re: Docket No. RW-00000B-07-0051

March 17, 2008
Page 3

application is comprised of two or more parcels that are owned by different parties.”

The better practice is the current practice, i.e., for Staff to request, on a case by case basis, that additional information be added to the detailed maps that most applicants, like the Company, already file. Also, instead of continuing with the current practice, the proposed changes would require the maps to identify the municipal limits of cities or towns that are within five miles instead of one mile of the area under application. Like some of the other requirements discussed above, this will substantially increase rather than lessen the burden of furnishing information even though there has been no showing that it is relevant, needed, or useful. Again, a case-by-case basis would be the better practice.

7. Section 14-2-B.2.q and 14-2-B.2.s have been dramatically worsened by the additional proposed changes. These new Sections would now require an applicant to obtain a letter from the wastewater provider (often there are two or more wastewater providers) confirming the provision of such service and a description of how the applicant will “work with” the wastewater provider to encourage water conservation, including promoting the use of reclaimed water; and, per subsection s., detailed water conservation plans, including describing water conservation measures or information provided to customers *and* the general public, a description of sources of water to turf areas, such as golf courses and greenbelts, a description of plans to use reclaimed water, surface water, and recharge wells, and a description of any other plans for promoting water conservation. The summary of this information alone demonstrates just how burdensome it is.

Comments from the Company and other water providers show that the Department of Water Resources already adequately addresses these issues without the need to be repeated in a CCN application.

There are better ways of addressing these issues. One is to allow utilities that wish to include this sort of information to do so on a voluntary basis. The Commission could easily require additional information from an applicant if necessary, depending on issues in the specific case. An alternative would be for an applicant to file, where available and applicable, copies of plans or information about water conservation filed, with the Department of Water Resources. This would be better than blindly requiring the same information from every applicant in every case, regardless of the circumstances in each case.

Thank you for the opportunity to amplify our previous comments. Also, the Company supports the Commission's decision to have additional public comment sessions concerning changes to the Water Rules and the opportunity to comment on other utilities' comments.

ARIZONA WATER COMPANY

To: Mr. Ernest G. Johnson
Re: Docket No. RW-00000B-07-0051

March 17, 2008
Page 4

Please feel free to contact me to discuss the Company's comments or any question about them that you may have.

Very truly yours,



William M. Garfield
President

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BEFORE THE ARIZONA CORPORATION COMMISSION

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2008 JAN 10 P 3:48

COMMISSIONERS

MIKE GLEASON - Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF RULEMAKING TO AMEND EXISTING RULES AND/OR ESTABLISH NEW RULES REGARDING THE COMMISSION'S REQUIREMENTS FOR APPLICATIONS REQUESTING APPROVAL TO OBTAIN A NEW CERTIFICATE OF CONVEINCE AND NECESSITY OR EXTEND AN EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY FOR WATER AND SEWER UTILITIES

DOCKET NO. : RW-00000B-07-0051
(Water Rulemaking)

COMMENTS ON RECOMMENDATIONS

Arizona Water Company's comments on the recommendations of the proposed order and recommendations filed by the Utilities Division on January 2, 2008 in the above-captioned matter are attached.

RESPECTFULLY SUBMITTED this 10th day of January, 2008.

ARIZONA WATER COMPANY

By: Robert W. Geake
Robert W. Geake
Vice President and General Counsel
ARIZONA WATER COMPANY
Post Office Box 29006
Phoenix, Arizona 85038-9006

1 Original and thirteen (13) copies of the foregoing filed the 10th day of January, 2008 with:

2 Docket Control Division
3 Arizona Corporation Commission
4 1200 West Washington Street
5 Phoenix, Arizona 85007

6 A copy of the foregoing was hand-delivered this 10th day of January, 2008 to:

7 Christopher Kempley, Chief Counsel
8 Legal Division
9 Arizona Corporation Commission
10 1200 West Washington Street
11 Phoenix, Arizona 85007

12 Ernest G. Johnson, Director
13 Utilities Division
14 Arizona Corporation Commission
15 1200 West Washington Street
16 Phoenix, Arizona 85007

17 By: *Roland W. Meade*

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ARIZONA WATER COMPANY

3805 N. BLACK CANYON HIGHWAY, PHOENIX, ARIZONA 85015-5351 • P.O. BOX 29006, PHOENIX, ARIZONA 85038-9006
PHONE: (602) 240-6860 • FAX: (602) 240-6878 • WWW.AZWATER.COM

January 10, 2008

Mr. Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Re: Docket No. RW-00000B-07-0051 - IN THE MATTER OF RULEMAKING TO
AMEND EXISTING RULES AND/OR ESTABLISH NEW RULES
REGARDING THE COMMISSION'S REQUIREMENTS FOR
APPLICATIONS REQUESTING APPROVAL TO OBTAIN A NEW
CERTIFICATE OF CONVENIENCE AND NECESSITY OR EXTEND AN
EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY FOR
WATER AND SEWER UTILITIES

Dear Mr. Johnson:

Arizona Water Company (the "Company") provides the following comments to the proposed order filed by the Utilities Division ("Staff") of the Arizona Corporation Commission (the "Commission") on January 2, 2008, and Staff's proposed changes to the Rules (the "Proposed Changes") for water utilities only.

The Company notes its disappointment with the lack of changes to the Staff's initial proposal that the Company and several other water utilities and industry representatives commented on in April 2007, and which was the subject of a spirited public comment session held at the Commission on June 8, 2007. Notwithstanding the Staff's report in its January 2, 2008 transmittal memorandum with the proposed order that "...some of the written comments and comments from the [June 8] meeting have been incorporated into the proposed Rule changes," only three relatively minor changes to the Staff's initial proposal were made. None of these even remotely addressed the significant concerns expressed by the Company and other water utilities in their comments. Indeed, as the Company explains below, two of the revisions worsen, instead of improve Staff's initial proposal.

The Proposed Changes fail to incorporate or adopt any of the Company's comments submitted on April 13, 2007, which were reiterated by the Company and other utilities at the June 8 public comment session. As a result, the Company repeats those comments by incorporating them as Attachment A hereto. The Company also provides the following specific comments on the January 2, 2008 proposal, including the Proposed Changes:

E-MAIL: mail@azwater.com

To: Mr. Ernest G. Johnson
Re: Docket No. RW-00000B-07-0051

January 10, 2008
Page 2

1. The Company pointed out in its initial comments, at section 3, that the current procedures for providing public notice of the initial filing of an application for a Certificate of Convenience and Necessity ("CCN") or an extension of an existing CCN are adequate. There is simply no evidence that landowners or other interested persons are not receiving adequate notice under the Commission's current procedures. Instead of adopting any of the concerns of the Company or other water utilities, apart from a minor "exception" added to exclude sending notices to landowners who have requested service, the Proposed Changes represent no substantive change at all to Staff's initial proposal in new Section 14-2-402.B.2.k. of the Rules. The Company again submits that the revised notice provisions would significantly burden the CCN application process and that no evidence has been provided to show any change in current procedures is necessary.
2. The Company previously commented on new Section 14-2-402.B.2.m., which would require the applicant for water CCN to contact each landowner who elected not to respond to the Company's notice, and ask them to respond in writing. This extraordinary requirement (which is not required for applicants of sewer CCNs) is not warranted and would also significantly burden the CCN application process and no evidence has been provided to show any change in current procedures is necessary.
3. The Proposed Changes still require the same information from applicants for extensions of existing CCNs, as well as for applications for new CCNs. The Company and other water utilities explained that for Class A utilities which file frequent applications for CCN extensions, it is simply not necessary that identical information be filed with extension application after extension application. If no exception is to be made for Class A utilities, then the Rules should at least be revised to not require that the same information be filed for extensions of existing CCNs.
4. Revised Section 14-2-402.B.2.i. of the Rules now requires that any requests for service identify the requested water service provider. This addition was discussed at the June 8 meeting, and strenuously objected to by the Company. The problem with such a requirement, of course, is that someone like a landowner or a developer would determine which water service provider should be selected in a particular case. It is the Commission, not a landowner or developer, that must determine what is in the public interest, and who is a fit and proper water service provider. The Company urges the Commission to reject this needless and misguided revision.
5. New Section 14-2-402.B.2.j.ii. requiring detailed maps be filed with new extension applications is unduly burdensome, unnecessary, and practically impossible to comply with. That new section states:

ARIZONA WATER COMPANY

To: Mr. Ernest G. Johnson
Re: Docket No. RW-00000B-07-0051

January 10, 2008
Page 3

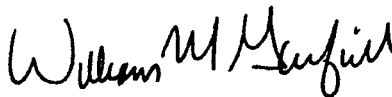
“ii. Land ownership boundaries indicating the acreage of each parcel within the area under application if the area under application is comprised of two or more parcels that are owned by different parties.”

The better practice is the current practice, i.e., for Staff to request, on a case by case basis, that additional information be added to the detailed maps that most applicants, like the Company, already file. Also, instead of continuing with the current practice, the Proposed Changes now require that maps must identify the municipal limits of cities or towns that are up to five miles instead of one mile from the area under application. Like some of the other requirements discussed above, this will substantially increase rather than lessen the burden of furnishing information even though there has been no showing that it is relevant, needed, or useful. Again, a case-by-case determination of the need for such information by the Staff would be the better practice.

6. The Proposed Changes in Section 14-2-402.D are inconsistent with A.R.S. §40-281.B, which provides for extensions into *non-contiguous* territory within a City, County or Town within which a utility has lawfully commenced operations. Is it Staff's intent to not require prior notification to the Commission for such extensions? Also, inserting the definition of “contiguous” at the beginning of Article 4 is out of place and is not germane to the sections that follow. That definition should remain at the end of Article 4.

The Company appreciates the opportunity to reiterate its initial comments, and submit these additional comments and edits to the Proposed Changes, and supports the Staff's recommendation that the Commission's hearing division schedule a public comment session after the Proposed Changes are filed with the Secretary of State's office. Moreover, the Company submits that more than one session should be scheduled. Finally, please feel free to contact me to discuss the Company's comments or any question about them that you may have.

Very truly yours,



William M. Garfield
President

lar
Enclosure

ATTACHMENT A

ARIZONA WATER COMPANY

3805 N. BLACK CANYON HIGHWAY, PHOENIX, ARIZONA 85015-5351 • P.O. BOX 29006, PHOENIX, ARIZONA 85038-9006
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April 13, 2007

Mr. Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Re: Docket No. RW00000B-07-0051 Water Rulemaking

Dear Mr. Johnson:

Arizona Water Company provides the following comments to the proposed revisions to A.A.C. R14-2-402, the Arizona Corporation Commission (the "Commission") rule governing applications for Certificates of Convenience and Necessity ("CCN") for water utilities, dated March 6, 2007.

1. The proposed changes to the rules are unnecessary for the majority of CCN applications. The exception would be where more than one water provider has filed an application to extend a CCN or to establish an initial CCN. In such contested cases, Commission Staff often requires all applicants to provide more detailed information than would otherwise be required for uncontested and routine CCN applications. Rather than burdening all CCN applications with expanded requirements, Staff can request the parties in contested cases to submit more detailed information. For example, Staff's usual practice is to either request additional detailed information from the applicant through an insufficiency letter or through a data request. This sort of information would be specific to a particular application and works well for Staff and the applicant. In contrast, the proposed revisions would require submission of additional information in every case, whether it is needed or not, and would not necessarily provide Staff the specific detailed information it might still need from an applicant in a particular case. For these reasons existing data gathering procedures already give Staff the ability to obtain the specific information it requires.

2. A Class A utility should not be required to provide the information required by proposed revisions A.2.c. and A.2.d., since the utility's past performance – in the case of Arizona Water Company, for example, fifty-two years of successful water utility operations and demonstrated financial, managerial and technical capabilities – shows it is ready, willing, and able to provide the required water facilities and service. In contrast, CCN applications filed by a new water provider should include detailed information about the new water provider's ability to provide such service and the projected cost of such service.

E-MAIL: mail@azwater.com

ARIZONA WATER COMPANY

To: Mr. Ernest Johnson
Re: RW-00000B-07-0051 Water Rulemaking

April 13, 2007
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3. Applicants should continue to provide public notice through public newspaper notices and direct mailings to property owners. These methods have proven to be very effective in reaching affected property owners. Actively soliciting responses from individual property owners, as the proposed revisions would require, would place an applicant in the position of gathering supporting signatures and would likely expand CCN proceedings unnecessarily. The vast majority of private property owners and public entities support the inclusion of their property within a service provider's CCN, and those who oppose already receive ample notice and have the opportunity to state their concerns. Therefore, these extraordinary additional measures are not warranted.

4. A requirement in Section A.2.j.ii that maps of the proposed service area identify the land ownership boundaries and the acreage of each parcel if the area in the application is comprised of two or more parcels owned by different parties would be unduly burdensome and practically impossible to comply with. Depending on the size of the area in the application, there may be hundreds of parcels. Separate maps, rather than the standard township, range and section map, would be required, and would have to depend upon assessor's office maps and records, which are not always accurate and which may be out of date. The Staff has not normally required this information. A better way of handling this would be for the Staff to request additional information of this type from the applicant when the Staff finds it necessary, rather than requiring it for every application in every case.

Arizona Water Company appreciates the opportunity to submit these comments. Because the Commission's rules governing CCN applications will have a profound effect on economic development and the corresponding growth of public service corporations that provide water service, the Commission needs to schedule and conduct stakeholder meetings with the affected utilities and the general public to gain a better understanding of how it can best handle CCN applications.

Please contact me, or have your staff contact me, at your convenience to discuss these comments or any questions you might have about them.

Very truly yours,



William M. Garfield
President

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TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND

ASSOCIATIONS; SECURITIES REGULATIONS

CHAPTER 2. CORPORATIONS COMMISSION FIXED UTILITIES

ARTICLE 4. WATER UTILITIES

Section

R14-2-402. Certificate of Convenience and Necessity for water utilities; ~~abandonments~~

ARTICLE 6. SEWER UTILITIES

Section

R14-2-602. Certificate of Convenience and Necessity for sewer utilities; ~~additions/extensions;~~
~~abandonments~~

ARTICLE 4. WATER UTILITIES

R14-2-402. Certificate of Convenience and Necessity for water utilities; ~~abandonments~~

A. For purpose of this rule, "contiguous" is defined with its common, ordinary and approved meaning: In actual close contact; touching; bounded or traversed by.

~~A.B.~~ Application for new Certificate of Convenience and Necessity or extension of Certificate of Convenience and Necessity

1. Any person or entity who desires to construct and/or operate a water utility will, prior to commencement of construction of utility facilities, file an application for a Certificate of Convenience and Necessity with the Arizona Corporation Commission.
2. ~~Six copies of each~~ Each application for a new Certificate of Convenience and necessity or extension of a certificate of Convenience and Necessity shall be submitted in a form and number prescribed by the Commission and shall include, at a minimum, the following information:

- a. The proper name and correct address of the proposed utility company and its owner/
if a sole proprietorship, each partner if a partnership, or the President and Secretary if
a corporation, ^{or its} ~~managers(s)~~ and/or members of the L.L.C. (if management is reserved
to the members) if a L.L.C.
- b. A copy of the applicant's Articles of Partnership or Articles of Incorporation ~~for the~~
applicant and/or Bylaws if the utility is a non-profit organization or association or
Articles of Organization if the utility is an L.L.C. for a new Certificate of
Convenience and Necessity or the applicant's Certificate of Good Standing for an
extension.
- c. ~~The type of plant, property, or facility proposed to be constructed.~~
- d. c. A complete description of the facilities proposed to be constructed, including a
preliminary engineering report with specifications in sufficient detail to properly
describe the principal systems and components which meet the requirements of the
health department. Final and complete engineering specifications shall be supplied
when they become available (e.g. source, storage, transmission lines, distribution
lines, etc.) in order to verify the costs submitted as part of R14-2-402(A)(d) and to
verify that the requirements of the Commission and the Arizona Department of
Environmental Quality can be met.
- d. The estimated total construction cost of the proposed off-site and on-site plant
facilities, including documentation to support the estimates, and an explanation of
how the construction will be financed, such as, but not limited to debt, equity,
advances ^{for} in aid of construction of contributions in aid of construction.

- e. ~~The rates proposed to be charged for the service that will be rendered.~~ The financial condition of the applicant.
- f. ~~The estimated total cost of the proposed construction.~~ The rates proposed to be charged for the service that will be rendered.
- g. ~~The manner of capitalization and method of financing for the project.~~
- h. ~~The financial condition of the applicant.~~
- i-g. The estimated annual operating revenues and expenses that are expected to accrue from the proposed construction for the first five years of operation, including assumptions made to derive the estimates.
- j-h. The estimated starting and completion date of the proposed construction. If construction is to be phased, the phases shall be described in detail.
- i. A copy of any requests for service for the area under application with the requested water service provider identified.
- k-j. Maps of the proposed service area identifying:
 - i. The boundaries of the area under application with the total acreage noted.
 - ii. Land ownership boundaries indicating the acreage of each parcel within the area under application if the area under application is comprised of two or more parcels that are owned by different parties.
 - iii. The owner of each parcel comprising the area under application.
 - iv. The corporate limits of any city or town that cross or are within five miles of the area under application.

- v. The service territory of any public service corporation, municipality or district currently providing water or wastewater service within one mile of the area under application, the name of any such entity and type(s) of service(s) being provided.
- vi. The location of any known water service connections ^{within} ~~with~~ the area under application.
- vii. The location of all proposed developments for the area under application.
- viii. The proposed location of all principal systems and components described in R14-2-402(A)(2)(c).
^{B.2.c.}
- ix. The location of all parcels for which a copy of a request for service has been provided per R14-2-402(A)(2)(i).
^{B.2.i.}
- k. A copy of the applicant's notice of the application to all the landowners in the area under application who did not request service.
- l. Appropriate city, county and/or state agency approvals.
- l. The written response to the notice from each landowner who did not request service. ^{, if any.}
- m. The estimated number of customers to be served for each of the first five years of operation, including documentation to support the estimates.
- m. If a landowner did not respond to the notice of the application, the application shall include a description of the action taken by the applicant to obtain a written response from the land owner.
- n. Appropriate city, county and/or state agency approvals.
- o. The estimated number of customers to be served for each of the first five years of operation, including documentation to support the estimates.
- The name of the wastewater service provider in the area under application. ^{, if any.}

- q. A description of how water will be provided for golf courses, ornamental lakes, other aesthetic water features, greenbelts, or parks within the area under application.
 - r. Plans or description of water conservation measures.
 - s. Backflow prevention tariff, if not already on file.
 - t. Curtailment tariff, if not already on file.
 - u. Physical Availability Determination, Analysis of Adequate Water Supply, or Analysis of Assured Water Supply from the Arizona Department of Water Resources or, in the alternative, the status of the application.
 - v. For applications for extensions of ^ACertificate of ^PConvenience and Necessity, the applicant shall also submit:
 - i. A current compliance status report from the Arizona Department of ^FEnvironmental Quality. This status report shall be dated no more than 30 days before the filing date of the application for extension.
 - ii. A water use data sheet for the existing system(s). A separate water use data sheet, identified by the Arizona Department of Environmental Quality's ^SPublic Water System Identification Number, shall be submitted for each separate water system.
3. Upon the receipt of such application, the Commission staff of the Utilities Division shall review the application for compliance with the information requirements of this regulation; additional information, amendments and/or corrections to the application to bring the application into compliance with this regulation shall be governed by the Commission's rules of administrative and hearing requirements concerning incomplete applications.

4. Once the applicant has satisfied the information requirements of this regulation, as well as any additional information required by the staff of the Commission's Utilities Division, the Commission shall, expeditiously as reasonably practicable, schedule hearings to consider such application.

B.C. Application for discontinuance or abandonment of utility service

1. Any utility proposing to discontinue or abandon utility service currently in use by the public shall prior to such action obtain authority therefore from the Commission.
2. The utility shall include in the application, studies of past, present and prospective customer use of the subject service, plant or facility as is necessary to support the application.
3. An application shall not be required to remove individual facilities where a customer has requested service discontinuance.

C.D. Additions! or extensions of service contiguous to outside existing Certificates of Convenience and Necessity

1. Each utility which proposes to extend utility service to a ~~location~~ parcel not within its certificated service area, but located in a non-certificated area contiguous to its certificated service area, shall prior to the extension of service, notify the Commission of such service extension. Such notifications shall be in writing and shall be verified and shall set forth, at a minimum, the number of persons or entities proposed to be served by such service extension, their location in relation to the certificated area of the utility and a statement of the utility that the service extension is to a non-certificated area parcel which is contiguous to its certificated area. Where emergency service is required to be provided to a customer in a non-certificated area contiguous to the utility certificated area the

utility shall advise the Commission simultaneously of such extension and the written notification shall set forth the nature and extent of the emergency.

2. ~~For purpose of this rule the following definition of "contiguous" is: Contiguous—~~
~~Common, ordinary and approved meaning. In actual close contact, touching, bounded or~~
~~traversed by.~~